

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

OCT 25 2016

at 5 o'clock and 00 min.
SUE BEITIA, CLERK

ORIGINAL

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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF HAWAII

SHERRI LYNN HOLLYMAN and)
CHRISTOPHER HOLLYMAN,)

Plaintiffs,)

vs.)

THE UNITED STATES OF)
AMERICA,)

Defendant.)
_____)

CIVIL ACTION NO. **C-16-00578 JMS** (KJM)

COMPLAINT; EXHIBIT 1
SUMMONS

COMPLAINT

Plaintiffs allege:

Jurisdiction

1. This action is based on the Federal Tort Claims Act, 28 U.S.C.A. §§ 1346(b), 2671 *et seq.* Claims have been presented by Plaintiffs to the United States Army as to personal injuries and loss of consortium sustained by Plaintiffs for which this action is commenced, and the amount of the claim has been finally denied by the federal agency. A copy of the formal denial of liability is attached

as Exhibit and is incorporated by reference. Plaintiffs reside in the above-entitled judicial district and the acts and omissions complained of occurred in the above-entitled judicial district.

Facts

2. On May 27, 2014, Plaintiff Sherri Lynn Hollyman was operating a motor vehicle on Wailoko Road at its intersection of Hawaii Highway No. 190, public highways in the Island and State of Hawaii.

3. At all times mentioned, Defendant was the owner of a United States Army tractor-trailer truck, bearing VIN 1FULATCG99P272827 operated by Zachary Lones, a truck driver then on maneuvers on Hawaii Highway No. 190 at its intersection with Waikoloa Road acting in the line of duty and within the scope of his employment by Defendant. Defendant also was the owner of a United States Army tractor-trailer truck, bearing VIN 1FULATCG98P272812 operated by Drake Davis, a truck driver then on maneuvers on Hawaii Highway No. 190 at its intersection with Waikoloa Road, acting in the line of duty and within the scope of his employment by Defendant.

4. While on Waikoloa Road in the mauka direction approaching its intersection with Highway 190 Plaintiff Sherri Lynn Hollyman stopped her vehicle short of the stop sign to allow extra room for the Army convoy approaching from the Kona direction to turn left onto Waikoloa Road at the intersection. The convoy

escort, a white pick-up truck rounded turn first and had not cleared the intersection for the oncoming convoy. The first and second vehicles in the convoy, the tractor-trailer trucks described above, both sideswiped the vehicle operated by Plaintiff Sherri Lynn Hollyman. The second tractor-trailer had a bulldozer blade secured crosswise across the flatbed on the tail end of the trailer overhanging the width of the flatbed. The overhanging part of the bulldozer blade struck Plaintiff's vehicle at the A-pillar of the driver's side windshield at eye-level, both collisions thereby seriously injuring Plaintiff Sherri Lynn Hollyman.

**Cause of Action
Count 1
(Negligence)**

5. Defendant and its employees were negligent in one or more or all of the following respects:

a. Negligently made the turns at the intersection when they knew or should have known that there was insufficient room to safely make the turns and that the turns could not be accomplished without the trucks colliding with the Plaintiff's vehicle.

b. Negligently operated the second truck to continue to turn at the intersection when they knew or should have known that the first truck already had collided with Plaintiff's vehicle.

c. Negligently allowed the bulldozer blade to overhang beyond the width of the flatbed trailer.

d. Negligently failed to secure the bulldozer within the width of the flatbed trailer.

e. Negligently failed to yield the right of way to the Plaintiff, or to motion or waive her to turn left in front of the trucks at the intersection so that she could avoid the collisions.

f. Negligently failed to train the drivers to avoid collisions of this type.

g. Negligently failed to supervise the drivers.

h. Negligently failed to warn or to instruct the drivers to stop turning their vehicles.

6. As a direct and proximate cause of Defendant's negligence, Plaintiff Sherri Lynn Hollyman sustained serious personal injuries, was and is disabled, suffered and continues to suffer extreme physical and emotional pain and distress, incurred medical expenses for her care and treatment and incurred other pecuniary losses.

Count 2
(Loss of Consortium)

7. The Plaintiffs reallege and incorporate by reference all the above paragraphs.

8. At the time of the occurrence, the Plaintiffs were married and the Plaintiffs continue to be married.

9. As a proximate result of the wrongful and negligent acts of the Defendant, the Plaintiffs were caused to suffer, and will continue to suffer in the future the loss of consortium, loss of society, affection, assistance and conjugal fellowship, all to the detriment of their marital relationship.

WHEREFORE, Plaintiffs ask judgment against Defendant in an amount not less than \$800,000.00 together with attorney's fees, costs, interest and such other relief as the Court deems appropriate.

DATED: Hilo, Hawaii, October 18, 2016.



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